

# June 2005

## Update: Child Protective Proceedings Benchbook (Revised Edition)

### CHAPTER 18

#### Hearings on Termination of Parental Rights

##### 18.20 Termination on the Grounds of Failure to Rectify Conditions Following the Court's Assumption of Jurisdiction—§19b(3)(c)

###### Case Law

Insert the following case summary before the summary of *In re AH* on page 403:

♦ *In re Fried*, \_\_\_ Mich App \_\_\_, \_\_\_ (2005)

The trial court did not err in terminating respondent-father's parental rights to his child under §19b(3)(c)(i). Respondent's drug addiction continued to exist at the time of the hearing on termination of rights, and, although he had begun to address his addiction, evidence showed that it would take 18-24 months before respondent would overcome denial of his addiction. Moreover, if respondent successfully completed substance abuse treatment, he would then need to address "underlying personality issues." Because the earliest time that respondent would be able to care for his 14-month-old child was in two years, the trial court properly found that the conditions that led to adjudication would not be rectified in a reasonable time given the child's age.

## CHAPTER 20

### “Child Custody Proceedings” Involving Indian Children

#### 20.3 Determining Whether a Child Is an “Indian Child”

On page 429 before the last paragraph, insert the following text:

**“Indian tribe” defined.** An “Indian tribe” means “any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary [of the Interior] because of their status as Indians[.]” 25 USC 1903(8). The court determines whether a tribe is an “Indian tribe.” *In re NEGP*, 245 Mich App 126, 133-34 (2001).

In *In re Fried*, \_\_\_ Mich App \_\_\_, \_\_\_ (2005), the respondent claimed that the trial court erred in failing to apply ICWA to the proceedings because the child was eligible for membership in the “Lost Cherokee Nation.” The Court of Appeals held that “because the tribe to which respondent belongs is not a tribe recognized as eligible for services provided to Indians by the Secretary of the Interior, it is not an ‘Indian tribe’ within the meaning of the ICWA. 25 USC 1903(8), (11).” *Fried, supra*.